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IN THE

Supreme Court of the United States

UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT and OAKLAND HOUSING AUTHORITY and HAROLD DAVIS,
Petitioners,

v.

PEARLIE RUCKER, *et al.*,
Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

BRIEF *AMICI CURIAE* OF THE NATIONAL NETWORK TO END DOMESTIC VIOLENCE, NATIONAL NETWORK TO END DOMESTIC VIOLENCE FUND, CALIFORNIA ALLIANCE AGAINST DOMESTIC VIOLENCE, (CONTINUED ON INSIDE FRONT COVER) IN SUPPORT OF RESPONDENTS

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South Carolina Coalition Against Domestic Violence and Sexual Assault,
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Washington State Coalition Against Domestic Violence,
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TABLE OF CONTENTS

TABLE OF AUTHORITIES ii

INTEREST OF AMICI CURIAE 1

SUMMARY OF ARGUMENT 2

ARGUMENT 3

I. INTRODUCTION 3

II. "ONE STRIKE" EVICTION POLICIES BLAME AND PUNISH BATTERED WOMEN AND THEIR CHILDREN AND COMPOUND A NATIONAL CRISIS 4

III. PUNISHING THE VICTIMS OF VIOLENCE IS UNSOUND AND UNLAWFUL 10

A. Punishing The Victims Of Domestic Violence Is Plainly Wrong 10

B. Congress Did Not Authorize Policies That Punish Victims Of Domestic Violence 14

1. Strict Liability Evictions Of Battered Women Are Not Authorized Under Federal Law 15

2. Strict Liability Evictions Violate Federal Housing Law 18

3. Strict Liability Evictions Are Contrary To Public Policy 20

IV. CONCLUSION 23

APPENDIX A-1

TABLE OF AUTHORITIES

FEDERAL CASES

Chevron U.S.A. v. Natural Resources Defense Council, 467 U.S. 837 (1984) 10

Church of the Holy Trinity v. United States, 143 U.S. 457 (1982) 16

Food and Drug Admin. v. Brown & Williamson Tobacco Corp., 529 U.S. 120 (2000) 20, 21, 23

Mitchell v. U.S. Department of Housing and Urban Development, 569 F.Supp. 701 (N.D. Cal. 1983) 13

Pacific Mutual Life Insurance Co. v. Haslip, 499 U.S. 1 (1991) 18

Planned Parenthood of Southeastern Pennsylvania v. Casey, 505 U.S. 833 (1992) 4, 11, 12

Public Citizen v. United States, 491 U.S. 440 (1989) 16

Rucker v. Davis, 237 F.3d 1113 (9th Cir. 2001) 4, 20

United States v. Morrison, 529 U.S. 598 (2000) ..... passim

Washington Legal Clinic for the Homeless, Inc. v. Barry, 918 F.Supp. 440 (D.D.C 1996) 13

STATE CASES

In re Sharwline Nicholson, et al., Prelim. Mem. and Inj., CV 00-2229, CV 00-5155, CV 00-6885 (E.D.N.Y. Oct. 25, 2001) 10

Moundsville Housing Authority v. Porter, 370 S.E.2d 341 (W. Va. 1988) (per curiam) 8

Steven Scott Management, Inc. v. Steven Rayfield Scott and Carol Norman, C7-98-2024, 1999 WL 366596 (Minn. Ct. App., June 8, 1999) 6, 8

DOCKETED CASES

Housing Authority of Covington v. Gail Stacy, Def.'s Mem. Supp. Summ. J., (Ky. Dist. Ct. filed Apr. 28, 1994), 94-C-00607 8

United States and Tiffanie Alvera v. C.B.M. Group, Inc., CV No. 01-857-PA (D. Or., filed June 8, 2001) 19

Weston Assoc. v. Veronica Maffeo, Def.'s Motion to Vacate J., New Trial, Docket No. 01-SP-03935 (Hous. Ct. Dep't, Boston Div., filed Sept. 2001) 3

FEDERAL STATUTES

42 U.S.C. § 1437d(l)(2) ..... passim

42 U.S.C. § 1437d(l)(6) ..... passim

42 U.S.C. § 3604 19

42 U.S.C. §§ 10401 *et seq* 21

42 U.S.C. § 10402 ..... 21, 22

42 U.S.C. § 10416 22

42 U.S.C. § 13941 21

42 U.S.C. § 13962 22

42 U.S.C. § 14031 22

Anti-Drug Abuse Act of 1988, Pub. L. No. 100-690, 102 Stat. 4181 15

Cranston-Gonzales Nat'l Affordable Hous. Act of 1990, Pub. L. No. 101-625, 104 Stat. 4079 (1990) 15

Family Violence Prevention Services Act of 1984, Pub. L. No. 98-457, 98 Stat. 1757 21

Housing Opportunity Program Extension Act of 1996, Pub. L. No. 104-120, 110 Stat. 836 15

Pub. L. No. 106-386, Sec. 1001 *et seq.*, 114 Stat. 1464 (2000) 22

Quality Housing and Work Responsibility Act of 1998, Pub. L. No. 105-276, 112 Stat. 2518 (1999) 22

Victims of Crime Act of 1984, Pub. L. No. 98-473, 98 Stat. 2170 21

Violence Against Women Act of 1994, Pub. L. No. 103-322, 108 Stat. 1902 21

FEDERAL REGULATIONS

56 Fed.Reg. 51,560, 51,563, 51,566-67 (Oct. 11, 1991) 16

OTHER FEDERAL MATERIALS

Clinton, William J., *Remarks Announcing the One Strike Initiative in Public Housing*, 32 Weekly Comp. Pres. Doc. 582 (March 28, 1996) 17

Determination of Reasonable Cause, *Alvera v. Creekside Village Apartments*, Case No. 10-99-0538-8 (Seattle Fair Hous. HUB, April 16, 2001) 19

Final Analysis and Investigative Report of Judith A. Keeler, Director, *Alvera v. Creekside Village Apartments*, Case No. 10-99-0538-8 (Seattle Fair Hous. HUB, April 13, 2001) 9

S. Rep. No. 101-316 at 179 (1990), *reprinted in* 1990 U.S.C.C.A.N. 5763 17

U.S. Dept. of Hous. And Urban Dev., Community Safety and Conservation Div., *One Strike and You're Out* at http://www.hud.gov/pih/programs/ph/de/programs/onestr.html 18

Women and Violence, Hearings before the U.S. Senate Judiciary Committee, Sen. Hearing No. 101-939 (1990) 13

MISCELLANEOUS

Aronson, Yvonne, Zero Tolerance, Health Matters at http://www.ashlandwi.com/memorial/placed/story/10-25-2000ad_three.html (last visited Nov. 28, 2001) 12

Barbee, Camille, *Woman Faces Eviction Over Ex-Husband's Rampage; Advocates Decry Action Taken by City View Park*, Louisville Courier Journal, Oct. 22, 1998 7

Buel, Sara M., *Fifty Obstacles to Leaving, A.K.A. Why Victims Stay*, 28 Colo. Law. 19 (1999) 11

Carter, Darla, *City View Park Complex Drops Attempt to Evict Woman: Effort Began After Rampage by Ex-Husband*, The Courier-Journal, Nov. 21, 1998 6

Domestic Violence and Homelessness Fact Sheet (Nat'l Coalition for the Homeless) April 1999 14

Dworin, Diana, *Housing Agency Evicts More Than Lawbreakers*, Austin-American Statesman, Feb. 23, 1996.....7

Frankel, Alison, *Domestic Disaster*, 6/1996 Am. Law. 55 (1996).....13

Griffin, Laura, *Crime Victim, Complex Settle Case*, Dallas Morning News, July 15, 1999.....6

Griffin, Laura, *Eviction Upheld for Woman Who Was Attacked in Home*, Dallas Morning News, May 26, 1999.....6

Grow, Doug, *When Victim is Seen as the Villian*, Minneapolis Star Trib., Dec. 29, 1989.....8

Hurst II, E.J., *Rules, Regs, and Removal: State Law, Foreseeability, and Fair Play in One Strike Terminations From Federally Subsidized Public Housing*, 38 Brandeis L.J. 733 (2000) 7

Lauer, Ethan Brennan, *Housing and Domestic Abuse Victims: Three Proposals for Reform in Minnesota*, 15 Law & Ineq. 471 (1997).....passim

Lifting the Voices of Homeless Women (Roofless Women's Action Research Mobilization), April 1997.....13

Nunez, Ralph and Cybelle Fox, A Snapshot of Family Homelessness Across America, Pol. Sci. Q. Vol. 114, No. 2 (Summer 1999).....13

Press Release, *Civil Rights Groups Fight Eviction of Battered Women Under "Zero Tolerance" Housing Policy* (July 10, 2001).....10

Reif, Susan A. & Krisher, Lisa J., *Subsidized Housing and the Unique Needs of Domestic Violence Victims*, Clearinghouse Rev. 20 (May-June 2000).....5

Rennison, Callie Marie & Welchans, Sarah, U.S. Department of Justice, *Intimate Partner Violence* 1 (2000).....4, 18

Renzetti, Claire M., One Strike and You're Out, Vol. 7, No. 6 Violence Against Women (2001).....11, 14

Richmond, Erin Meehan, *The Interface Of Poverty And Violence Against Women: How Federal And State Welfare Reform Can Best Respond*, 35 New Eng. L. Rev. 569 (2001).....12

Tjaden, Patricia & Thoennes, Nancy, Nat'l. Inst. of Justice, *Prevalence, Incidence and Consequences of Violence Against Women: Findings from the National Violence Against Women Survey* 2 (1998).....4, 18

U.S. Gen. Accounting Office *Domestic Violence: Prevalence and Implications for Employment Among Welfare Recipients* 7-8 GAO/HEHS 99-12 (1998).....12

Urban, Robin Hammael-, & Davies, Jill, *Federal Housing and Domestic Violence: Introduction to Programs, Policy, and Advocacy Opportunities*, (National Resource Center on Domestic Violence), Oct. 1999 13

INTEREST OF AMICI CURIAE

National Network to End Domestic Violence, National Network to End Domestic Violence Fund, California Alliance Against Domestic Violence, Alaska Network on Domestic Violence and Sexual Assault, Arizona Coalition Against Domestic Violence, Colorado Coalition Against Domestic Violence, Connecticut Coalition Against Domestic Violence, Delaware Coalition Against Domestic Violence, District of Columbia Coalition Against Domestic Violence, Hawaii State Coalition Against Domestic Violence, Kansas Coalition Against Sexual and Domestic Violence, Kentucky Domestic Violence Association, Michigan Coalition Against Domestic and Sexual Violence, Minnesota Coalition For Battered Women, New Hampshire Coalition Against Domestic and Sexual Violence, New Jersey Coalition For Battered Women, New Mexico Coalition Against Domestic Violence, New York State Coalition Against Domestic Violence, North Carolina Coalition Against Domestic Violence, Ohio Domestic Violence Network, Oklahoma Coalition Against Domestic Violence and Sexual Assault, Pennsylvania Coalition Against Domestic Violence, Rhode Island Coalition Against Domestic Violence, Sojourn Services, South Carolina Coalition Against Domestic Violence and Sexual Assault, Vermont Network Against Domestic Violence and Sexual Assault, Washington State Coalition Against Domestic Violence, West Virginia Coalition Against Domestic Violence, Wisconsin Coalition Against Domestic Violence, and Wyoming Coalition Against Domestic Violence and Sexual Assault ("*amici*") submit this brief in support of Respondents.[•] The interest of *amici* are described in the Appendix to this brief.

[•] Pursuant to Sup. Ct. R. 37.3(a), all parties have consented to the filing of this brief and their letters of consent have been filed with the Clerk of the Court. Pursuant to Rule 37.6, *Amici Curiae* state that no

SUMMARY OF ARGUMENT

Battered women and their children are evicted from their homes by landlords who blame them for the violent acts of their abusers. This should not happen, especially in public housing, where federal laws aim to protect victims of crime -- and victims of domestic violence in particular. Congress did not authorize or intend the absurd result of punishing victims. But it does happen, too often.

Strict liability and "zero tolerance" policies, such as the "One Strike" public housing policy, present a terrible dilemma for victims of violence: endure in silence or lose your home. Strict liability policies blame -- indeed, punish -- the victims and the children of victims of violent crime. They are not authorized under the Housing Act. They contravene numerous Congressional enactments seeking to provide services to battered women. Moreover, when applied to victims of domestic violence, they overwhelmingly affect women, and therefore may violate federal anti-discrimination law.

For these reasons, the Court of Appeals for the Ninth Circuit correctly limited the application of federal law and its decision should be AFFIRMED.

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counsel for any party authored this brief in whole or in part and no person or entity, other than *Amici Curiae*, its members, or its counsel, made a monetary contribution to the preparation of this brief.

ARGUMENT

> Veronica Maffeo was beaten up by her ex-boyfriend in her Boston apartment. She obtained a restraining order against him. He was arrested, prosecuted, and convicted for assault and battery. Her landlord sought to evict her because she caused a disturbance when she screamed for help while she was being attacked.[1/]

I. INTRODUCTION

Petitioners argue that 42 U.S.C. § 1437d(l)(6) sweeps broadly to include "any criminal activity that threatens the health, safety, or right to peaceful enjoyment" of housing by others that is committed by "the tenant, any member of the household, a guest, or another person under the tenant's control." Such an interpretation is absurd in the extreme, authorizing even the eviction of victims of crime under a statute expressly enacted to protect the innocent. Many public housing authorities and private landlords nevertheless interpret the statute under "one strike" or "strict liability" policies to threaten victims of violence.

Landlords relying on this mistaken statutory interpretation evict innocent and often injured women and children who are victims of domestic assault. These practices are not authorized by the plain language of the statute, in its legislative history, or with reference to the numerous other Congressional enactments addressing the needs of battered women and their children. Strict liability

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[1/] *See* Def.'s Mot. to Vacate J., New Trial, *Weston Assoc. v. Veronica Maffeo* at ¶ 4 (Hous. Ct. Dep't, Boston Div., filed Sept. 2001) (Docket No. 01-SP-03935).

policies used to evict victims of domestic assault in fact discriminate against women in violation of federal law.

For these reasons, the Court of Appeals for the Ninth Circuit correctly found that 42 U.S.C. § 1437d(l)(6) does not authorize evictions if "the tenant has taken reasonable steps to prevent" the criminal activity and the tenant "could not realistically exercise control of the conduct of the household member or guest . . . ." *Rucker v. Davis*, 237 F.3d 1113, 1129 (9th Cir. 2001). This is the only lawful construction of the statute. A statutory interpretation by the Department of Housing and Urban Development ("HUD") and local housing authorities that assumes guilt and authorizes the eviction of innocent tenants only serves to punish the victims of crime. That approach is contrary to law.

II. "ONE STRIKE" EVICTION POLICIES BLAME AND PUNISH BATTERED WOMEN AND THEIR CHILDREN AND COMPOUND A NATIONAL CRISIS

Domestic violence is a terrifying reality for women and children across the country.[2/] Millions of women are physically abused by their husbands or partners each year.[3/]

[2/] This brief focuses on violence against women because the victims of domestic violence and sexual assault are nearly always women. *See infra*, notes 49-53 and accompanying text. The United States Department of Justice estimates that 85% of reported assaults on partners or ex-partners are committed by men against women. Callie Marie Rennison & Sarah Welchans, U.S. Department of Justice, *Intimate Partner Violence at* 1 (2000). *See also Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833, 891 (1992) (describing incidence of violence against women and children).

[3/] *See* Patricia Tjaden & Nancy Thoennes, Nat'l. Inst. of Justice, *Prevalence, Incidence and Consequences of Violence Against Women: Findings from the National Violence Against Women Survey* at 2, 7

The effects of domestic violence are severe. Physical injuries such as shattered bones, scratches, bruises, and burns are only the most visible consequences. Victims of domestic violence also miss work due to their injuries and can ultimately lose their jobs as a result of the violence committed against them. Battered women can also have trouble finding homes due to poor credit, rental and employment histories resulting from their abuse.[4/]

As hard as it is to believe, battered women and their children are evicted from their homes under "One Strike" policies only because they have been abused. Landlords interpret regulatory and contractual provisions -- such as the "One Strike" rule -- to authorize eviction when any crime or violence occurs in or near a home. All too frequently, victims are blamed and punished for crimes committed against them. Landlords make these decisions because of a lack of understanding about domestic violence, outright prejudice, or fear.

Imagine being attacked in your home and later being told that you violated the lease because your attacker

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(1998). In fact, the National Institute of Justice reported that 5.9 million assaults are perpetrated against women annually. *See id.* at 11. *See also United States v. Morrison*, 529 U.S. 598, 632 (2000) (Souter, J., dissenting) (citing estimate of four million women assault victims every year).

[4/] *See* Susan A. Reif & Lisa J. Krisher, *Subsidized Housing and the Unique Needs of Domestic Violence Victims*, Clearinghouse Rev. 20 (May-June 2000). In addition to the personal toll, the cost of domestic violence to society is also substantial. It has been reliably estimated that family violence costs the nation from $5 to $10 billion annually in medical expenses, police and court costs, shelters and foster care, sick leave, absenteeism, and non-productivity. *See Morrison*, 529 U.S. at 635 (citing S. Rep. No. 103-138, at 41 (1993)).

"substantially annoyed and endangered *other* residents."[5/] Or because your ex-husband entered your home, threatened you, and then shot himself.[6/] Or because your boyfriend assaulted you in your home.[7/] After suffering at the hands of an attacker, becoming bloodied, bruised and possibly hospitalized, you could be evicted simply because you were victimized:

- Chanell Tanzy received twelve stitches in her right arm after her boyfriend assaulted her. She also received an eviction notice. A judge sided with the landlord evicting Ms. Tanzy, saying Ms. Tanzy was responsible for any criminal activity that occurred in her apartment, including domestic violence.[8/]

- Theresa Taylor tried to keep her ex-boyfriend out of her Louisville apartment. He had been in jail for violating a court-issued civil protection order directing him to stay away from her. Taylor told him he wasn't supposed to be there, but he pulled a gun

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[5/] *Steven Scott Management, Inc. v. Steven Rayfield Scott and Carol Norman*, C7-98-2024, 1999 WL 366596, at * 1 (Minn. Ct. App., June 8, 1999) (dismissing an unlawful detainer action brought against batterer and victim and evicting batterer) (emphasis supplied).

[6/] Darla Carter, *City View Park Complex Drops Attempt to Evict Woman: Effort Began After Rampage by Ex-Husband*, The Courier-Journal, Nov. 21, 1998 at 1A.

[7/] Ethan Brennan Lauer, *Housing and Domestic Abuse Victims: Three Proposals for Reform in Minnesota*, 15 Law & Ineq. 471 (1997) (citing *West Bank Homes v. M.K.*, No. 1891221520, slip op. at 2 (4th Dist. Ct. Minn. Jan. 22, 1990) (order denying reconsideration)).

[8/] Laura Griffin, *Eviction Upheld for Woman Who Was Attacked in Home*, Dallas Morning News, May 26, 1999 at 1A. This case was eventually settled. *See* Laura Griffin, *Crime Victim, Complex Settle Case*, Dallas Morning News, July 15, 1999 at 23A.

out and pointed it at her. She escaped and called the police. Later, she was ordered evicted from her apartment complex for violating her lease by allowing "criminal activity" on the premises. Her property manager said he could not ignore the violent incident that had occurred and started the eviction process in part to reassure other residents that something was being done about it. "She's not being evicted because she is a victim of domestic violence," said the landlord's attorney, "[i]f she is being evicted, it is for violating the lease."[9/]

- Margaret Ramirez was assaulted by a former boyfriend who pounded at her face while her six year old son tried to fend off her attacker with a stick. The Rio Lado housing authority moved to evict her because she allowed the assailant into her home. The housing authority attorney said "it's only fair to the residents that everybody be treated equally and that everybody understands: zero tolerance means zero tolerance."[10/]

- Gail Stacy's abuser was arrested three times for assaulting her and for attempting to break into her residence in the middle of the night. The Covington, Kentucky public housing authority sought to evict her because it claimed that domestic violence incidents

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[9/] Camille Barbee, *Woman Faces Eviction Over Ex-Husband's Rampage; Advocates Decry Action Taken By City View Park*, Louisville Courier Journal, Oct. 22, 1998, at 1A. *See also* E.J. Hurst II, *Rules, Regs, and Removal: State Law, Foreseeability, and Fair Play in One Strike Terminations From Federally Subsidized Public Housing*, 38 Brandeis L.J. 733, 755-56 (2000).

[10/] Diana Dworin, *Housing Agency Evicts More Than Lawbreakers*, Austin-American Statesman, Feb. 23, 1996, at A1.

> on the premises had threatened the health, safety or right to peaceful enjoyment of other public housing residents.[11/]

Landlords evict battered women for failing to prevent assaults because they believe that neighbors "cannot tolerate such behavior."[12/] They argue that battered women "endang[er] other residents by allowing [a] dangerous person on the premises."[13/]

Even when no property is damaged and no neighboring tenants complain, property managers claim that fellow residents suffer by being forced to witness a violent act.[14/] According to some landlords, battered women

> [do] not take steps to prevent a recurrence of violent acts, subjecting other tenants to witness the scene play out time and time again. [We] take such a hard stance on the issue of violence [in order] to maintain a peaceful living environment for all tenants.[15/]

Beliefs such as these are based on a misunderstanding of domestic violence, including the fundamental misunderstanding that battered women can control the behavior of their attacker. Eviction practices based on these misunderstandings further victimize innocent women and children. Indeed, "one strike" policies may have the exact opposite result from what well-meaning proponents intend, discouraging victims from reporting or escaping abuse by threatening them with eviction.

Notwithstanding several high-profile cases, it is extremely likely that domestic violence-related evictions are under-reported. Battered women may go to great lengths to hide their abuse from the police, their landlords, and their neighbors in order to guard against retaliation by their abuser, avoid societal prejudice, and minimize the risk of receiving an eviction notice. In addition, women may feel that they do not have cause to challenge strict liability evictions because these actions are portrayed as lawful. In that situation, fleeing to a safe shelter and caring for young children may take priority over fighting an unjust eviction.

The lack of highly publicized evictions of battered women is therefore not surprising. Advocates in the field report that these evictions -- and the threat of these evictions

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11/ Def.'s Mem. Supp. Summ. J. at 4, *Housing Authority of Covington v. Gail Stacy*, (Ky. Dist. Ct. filed April 28, 1994) (94-C-00607).

12/ Doug Grow, *When Victim is Seen as the Villian*, Minneapolis Star Trib., Dec. 29, 1989, at 1B. In *West Bank Homes*, the District Court rejected the landlord's view and refused to evict the tenant for "permitting" an assault on herself. Lauer, *supra*, at 471 (quoting *West Bank Homes*, at 3). *See also Moundsville Hous. Auth. v. Porter*, 370 S.E. 2d 341, 343 (W. Va. 1988) (per curiam) (overturning eviction order of battered woman whose landlord served eviction notice two days after tenant was beaten, hospitalized, and reported incident to police).

13/ *Steven Scott Management*, 1999 WL 366596 at *1.

14/ *United States v. C.B.M. Group, Inc.*, Civ No. 01-857-PA (D. Or., filed June 8, 2001).

15/ Final Analysis and Investigative Report of Judith A. Keeler, Director, *Alvera v. Creekside Village Apartments*, Case No. 10-99-0538-8, at 24 (Seattle Fair Hous. HUB, April 13, 2001).

-- are a crisis for battered women.[16/] On their behalf, more than thirty *amici* have joined this brief.

III. PUNISHING THE VICTIMS OF VIOLENCE IS UNSOUND AND UNLAWFUL

Blaming victims is not an appropriate response to violence. Congress certainly has recognized this; there is no basis for interpreting federal law to authorize the eviction of victims. To the contrary, such a policy would be absurd in the extreme, plainly contravene the statute, and violate federal law.[17/] Victims of domestic violence are uniquely vulnerable to the threat of eviction. Strict liability eviction policies that aggravate the harsh effects of domestic violence are counterproductive, unsound, and unlawful.

A. Punishing The Victims Of Domestic Violence Is Plainly Wrong

Women are not engaging in criminal activity when they are beaten or abused in their home.[18/] Victims of domestic

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[16/] *See, e.g.*, Press Release, *Civil Rights Groups Fight Eviction of Battered Women Under "Zero Tolerance" Housing Policy* (July 10, 2001) ("zero tolerance" policies against battered women are common in many states). *See also* Appendix A to this brief, setting forth experience from across the country as to the urgency of this issue.

[17/] For these reasons, petitioners' interpretation is flatly inconsistent with Congress's unambiguous intent. *See Chevron U.S.A. v. Natural Resources Defense Council*, 467 U.S. 837, 842-43 (1984). Even if the Court finds the statute is silent as to the existence of an "innocent tenant" defense to eviction, precluding such a defense is an unreasonable construction of the statute. *See id.* at 843, 844.

[18/] *Accord In re Sharwline Nicholson, et al.*, Prelim. Mem. and Inj., CV 00-2229, CV 00-5155, CV 00-6885, at 4 (E.D.N.Y. Oct. 25, 2001) (finding that battered mothers are not "'engaged in' domestic violence by being victims of such violence . . . .").

violence are not trying to threaten the health, safety or well-being of their neighbors. They are simply trying to rebuild their lives, and in doing so protect their safety and the safety of their children. Often the act of leaving or attempting to leave a violent relationship itself triggers the severest violence.[19/] For this reason, punishing victims of domestic violence with eviction -- or the threat of eviction -- exacerbates the underlying problem.

Although many people believe that battered women can easily leave an abusive home or relationship, this is not necessarily true.[20/] Violent relationships are characterized by substantial power disparities that make leaving very difficult for many women and children.[21/] Abusers undertake a wide range of strategies to isolate their victims emotionally and economically from their families and communities.[22/] They harass and intimidate victims, sabotage their efforts at

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[19/] Lauer, *supra*, at 479. ("A major reason why women may not leave abusive relationships is fear of increased violence during the attempted exodus and thereafter.") Batterers themselves decide when relationships become violent. Battered women cannot foresee that men they know will become batterers. Abusers do not necessarily behave abusively in relationships outside the home, and they give potential victims no warning of future violence inside the home. Even when a woman realizes that she is being abused, she may not know precisely when the abuse will happen.

[20/] *See Planned Parenthood*, 505 U.S. 833 at 892 (finding that "[m]any victims of domestic violence remain with their abusers because they perceive no superior alternatives"). *See also* Sara M. Buel, *Fifty Obstacles to Leaving, A.K.A. Why Victims Stay*, 28 Colo. Law. 19 (1999).

[21/] *See* Lauer, *supra*, at 477 (describing how "violent relationships are characterized by 'great power disparities'").

[22/] Many batterers use their victims' economic needs as leverage to force women and children to stay in abusive homes and relationships. *See* Claire M. Renzetti, *One Strike and You're Out*, Vol. 7 No. 6 Violence Against Women 685, 688 (2001).

employment and make harder battered womens' attempts to obtain independence.

Economic control is an important component of the batterer's system of maintaining authority over the victim.[23/] Abusers prefer their victims to be economically dependent because such dependence gives the abuser complete control in the relationship.[24/] It is not uncommon for abusers to control family finances and to sabotage victims' efforts to gain economic self-sufficiency. A woman who decides to leave her abuser faces great economic challenges regardless of her income level because she frequently has to leave behind her only financial resources or support. Women also face social pressure to maintain their relationships. They may believe that society, the legal system, and their communities consider dissolution of their relationships undesirable.[25/]

Leaving a violent home is even more difficult because of the severe lack of alternative housing. Crisis intervention services dedicated to assisting battered women typically

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[23/] Numerous women are forced to go back to their abusers because of lack of money or housing. U.S. Gen. Accounting Office *Domestic Violence: Prevalence and Implications for Employment Among Welfare Recipients* 7-8 GAO/HEHS 99-12 (1998) (detailing evidence that desire for economic control underlies many brutal crimes against women).

[24/] Erin Meehan Richmond, *The Interface Of Poverty And Violence Against Women: How Federal And State Welfare Reform Can Best Respond*, 35 New Eng. L. Rev. 569, 573 (2001). *See also, Planned Parenthood*, 505 U.S. at 892 (noting that "[m]any abused women who find temporary refuge in shelters return to their husbands in large part because they have no other source of income.")

[25/] *See* Yvonne Aronson, *Zero Tolerance*, Health Matters, at *http://www.ashlandwi.com/memorial/placed/story/10-25-20[illegible]1_three.html* (last visited Nov. 28, 2001).

provide temporary and emergency shelters for victims in immediate danger, but they do not offer refuge long term. With limited beds and restricted lengths of stay, they cannot meet the ongoing needs that victims have for permanent housing. Given the serious shortage of ready and affordable long-term housing, the more long-term prospects are equally grim.[26/]

It is no wonder that women who are brave enough to leave their abusive homes often end up homeless. Some experts estimate that more than half of homeless women are on the street because they are fleeing domestic violence.[27/] Domestic violence is among the most significant reasons given by homeless parents for their plight.[28/] It is no surprise that abusers hold tremendous power over their victims. Battered women know they have few alternatives.

[26/] *See, e.g.* Alison Frankel, *Domestic Disaster*, 6/1996 Am. Law. 55 (1996); Robin Hammael-Urban & Jill Davies, *Federal Housing and Domestic Violence: Introduction to Programs, Policy, and Advocacy Opportunities* (National Resource Center on Domestic Violence), Oct. 1999, at 8-9. *See also Mitchell v. U.S. Dep't of Hous. and Urban Dev.*, 569 F. Supp. 701 (N.D. Cal. 1983) (the scarcity of public housing constitutes irreparable harm sufficient to enjoin eviction).

[27/] "[A]s many as 50 percent of homeless women and children are fleeing domestic violence." *Morrison*, 529 U.S. at 631. *See also Washington Legal Clinic for the Homeless, Inc. v. Barry*, 918 F. Supp. 440, 444 (D.D.C. 1996) (finding that "many families" seeking emergency housing services are "fleeing domestic violence"); *Women and Violence, Hearings before the U.S. Senate Judiciary Committee*, Sen. Hearing No. 101-939, pt. 2, at 79 (1990). In a survey of women's homelessness in Massachusetts, more than half of the women surveyed said that domestic violence was a cause of their homelessness. *Lifting the Voices of Homeless Women*, (Roofless Women's Action Research Mobilization) April 1997 at 5.

[28/] Ralph Nunez & Cybelle Fox, *A Snapshot of Family Homelessness Across America*, Pol. Sci. Q. Vol. 114, No. 2, at 3 (Summer 1999).

"Lack of affordable housing and long waiting lists for assisted housing mean that many women and their children are forced to choose between abuse at home or the streets."[29/]

Strict liability policies plainly give batterers control over a family's housing. They reflect an "insidious . . . assumption that the abuser is a person under the woman's control when [research] shows the opposite to be the case."[30/] Batterers can and do take advantage of strict liability policies to further control and punish their partners by deliberately engaging in or threatening to engage in wrongful behavior.[31/] These policies empower abusers by making it possible for batterers to threaten a family with homelessness. At the same time, they discourage battered women from taking steps to protect themselves, such as calling the police, requesting emergency medical care, obtaining a protective order, or confiding in neighbors. For these reasons, Congress did not authorize strict liability evictions against victims of crime.

B. Congress Did Not Authorize Policies That Punish Victims Of Domestic Violence

Congress has not authorized "zero tolerance" against the victims of crime. "One strike" policies cannot in fact be implemented consistent with federal law. Congress has enacted a wide range of programs and encouraged states to adopt policies to protect and serve the victims of domestic violence. This framework provides direct and forceful

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[29/] *Domestic Violence and Homelessness* Fact Sheet (Nat'l Coalition for the Homeless) April 1999.

[30/] *See* Renzetti, *supra,* at 690.

[31/] *Id.*

evidence that battered women should not be punished for their injuries. For this reason, there is no need for statutory language expressly excusing victims of crime from strict liability evictions; such is the clear intent of Congress.

1. Strict Liability Evictions Of Battered Women Are Not Authorized Under Federal Law

The U.S. Housing Act, 42 U.S.C. § 1437 *et seq.*, as amended by the Anti-Drug Abuse Act of 1988,[32/] the Cranston-Gonzales National Affordable Housing Act of 1990,[33/] and the Housing Opportunity Program Extension Act of 1996,[34/] does not authorize the eviction of victimized household tenants. The law targets criminal activity that threatens "the health, safety [and] right to peaceful enjoyment of the premises by *other tenants*."[35/] Blameless and injured tenants are precisely whom the law protects. Because victims of criminal activity are among the "other tenants" in the protected class, authorizing their eviction under the law would be entirely illogical and contrary to the stated objective of the law. In enacting section 1437d(l)(6) to protect public housing residents from crime, Congress could not, at the same time, intend to evict residents who are victims of crime.[36/] At most, the statute authorizes the

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[32/] Pub. L. No. 100-690, 102 Stat. 4181 (1988) (codified as amended at 42 U.S.C. § 1437d (l)).

[33/] Pub. L. No. 101-625, Sec. 505, 104 Stat. 4079, 4185 (1990) (codified as amended at 42 U.S.C. § 1437d)).

[34/] Pub. L. No. 104-120, § 9(a)(R), 110 Stat. 836 (1996) (codified as amended at 42 U.S.C. 1437(d)(1)).

[35/] *See* 42 U.S.C. § 1437d(l)(6) (1994 & Supp. IV 1998) (emphasis added).

[36/] Pub. L. No. 100-690, 102 Stat. 4181 (1988). Such a result would be "absurd" in the extreme. Long-standing precedent precludes statutory

eviction of persons consenting to or controlling the criminal activity.[37/] Authorizing the eviction of battered women because they have been attacked is therefore patently "unreasonable"[38/] and, moreover, inconsistent with federal public housing law.

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interpretation leading to absurd results. *See Public Citizen v. United States*, 491 U.S. 440, 454-58 (1989) (refusing to follow a statutory construction that "is difficult to fathom or . . . seems inconsistent with Congress's intention."); *accord Church of the Holy Trinity v. United States*, 143 U.S. 457, 459 (1882) (declining to follow the plain language of a statute in "consideration of . . . the absurd results [that would] follow.") No reasonable interpretation of section 1437d(1)(2)'s language permits the eviction of innocent victims of domestic violence. Petitioners' argument that the statute authorizes local housing authorities to exercise their discretion in this regard is patently unreasonable given the lack of standards for exercising that authority and the clear Congressional policy against domestic violence and in support of victims. *See infra*.

[37/] By authorizing the termination of a tenancy when "criminal activity" is engaged in by persons over which control may be exercised, Congress intended to provide incentives to prevent criminal activity. In the absence of the ability to exercise actual control, the statute creates no incentive and does nothing to target violence. *Cf.* 56 Fed. Reg. 51,560, 51,563 (Oct. 11, 1991) (implementing rules to provide the "strongest incentive to assure that family members do not consent" to criminal activity); *id.* at 51,566 (rules intended to "convince [families] to oust a person" who engaged in criminal activity); *id.* at 51,567 (rules intended to create incentives to tenants to exercise control over criminal activity by guests, household members, and others they control).

[38/] *See* 42 U.S.C. § 1437d(l)(2) (prohibiting "unreasonable terms and conditions" on leases). The legislative history provides additional support for this view. The committee report that accompanied the 1990 Cranston-Gonzalez Affording Housing Act recognized that eviction is not appropriate in every instance. The report stated that,

> [T]he committee anticipates that each case will be judged on its individual merits and will require the wise exercise of human judgment by the [Public Housing Authority] and the eviction

In fact, when President Bill Clinton launched the current "One Strike" policy in 1996, he emphasized that it was intended to punish the perpetrators of criminal activity, not their victims. In his 1996 State of the Union address, President Clinton "challenged local housing authorities and tenant associations to adopt [the One Strike policy] to simply say '*If you mess up* your community, you have to turn in your key. *If you* insist on *abusing or intimidating or hurting* other people, you'll have to live somewhere else.'"[39/] The intent was to punish those who commit violent acts and protect those against whom such acts are committed.

Announcing HUD's rule implementing the One Strike policy, the HUD Community Safety and Conservation Division stated that only "people in public housing who

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> court. For example, eviction would not be the appropriate course if the tenant had no knowledge of the criminal activities of his/her guests or had taken reasonable steps under the circumstances to prevent them.

S. Rep. No. 101-316 at 179 (1990), *reprinted in* 1990 U.S.C.C.A.N. 5763, 5941. This language makes clear that Congress authorized eviction only when the tenant was personally at fault or if the tenant had not taken reasonable steps to prevent the activity that is grounds for the eviction.

[39/] Clinton, William J., remarks announcing the *One Strike and You're Out* Initiative in Public Housing, 32 Weekly Comp. Pres. Doc. 582 (Mar. 28, 1996) (emphasis added). President Clinton went on to indicate that:

> [I]t's morally wrong for *criminals* to use up homes that could make a big difference in the lives of decent families . . . . [I]f people aren't going to do anything wrong in public housing, they have nothing to fear from 'One Strike and You're Out.'

Id at 583. The President's rhetoric makes clear that the persons against whom the policy should be addressed are the perpetrators of violence and not their victims.

engage in . . . criminal activity will face certain eviction."[40] As these statements show, the One Strike policy legitimately targeted those who engage in criminal activity; it did not target victims.

It is clear that targeting victims of crime through such evictions would be patently unreasonable. No behavior would be addressed that Congress has condemned, and no incentive would be created to deter violence, which is the targeted behavior. In fact, a statutory interpretation that authorizes victims to be threatened or evicted would only increase the power of abusers and the harm they may cause.[41]

2. Strict Liability Evictions Violate Federal Housing Law

Strict liability evictions of victims of domestic violence may also constitute gender discrimination and for that reason should not be authorized under section 1437d(l)(2). Statistics show that women are five to eight times more likely to experience violence by an intimate partner than men.[42] In 85 percent of domestic violence incidents, crimes are committed by men against women;[43] 72 percent of

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[40] U.S. Dept. of Hous. And Urban Dev., Community Safety and Conservation Div., *One Strike and You're Out, at* http://www.hud.gov/pih/programs/ph/de/programs/onestr.html (emphasis added).

[41] Such an interpretation would disserve the express Congressional interest and is therefore unreasonable. *See Pacific Mut. Life Ins. Co. v. Haslip*, 499 U.S. 1, 14 (1991).

[42] *See, e.g.*, Tjaden & Thoennes, *supra*, at 6-8 (citing study where 25 percent of surveyed women, but only eight percent of men, said they were raped and/or physically assaulted by a current or former spouse).

[43] Rennison & Welchans, *supra*, at 1-2.

intimate homicide victims are female.[44] Strict liability eviction policies applied to victims of domestic violence therefore disproportionately affect women. As such, they likely discriminate against women and violate section 804 of the Fair Housing Act, 42 U.S.C. § 3604.[45] Specifically, evicting all members of a household because of an incident of domestic violence -- regardless of whether the household

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[44] In 1998, three out of four domestic violence homicide victims were women. *Id.* at 1.

[45] Pub. L. 90-284, Sec. 804, 82 Stat. 83 (1968). The United States made precisely this claim in a case that it settled against an Oregon landlord on October 18, 2001. *See United States and Tiffanie Alvera v. C.B.M. Group, Inc.*, CV No. 01-857-PA (D. Or. filed June 8, 2001), Consent Decree (signed Nov. 5, 2001). In *Alvera*, a battered woman obtained a restraining order against her husband, furnished a copy to her landlord to ensure that the order was effected, and subsequently received a notice of eviction on the grounds that someone "under the tenant's control" committed an act of violence on the premises. *Id.* at ¶3. As part of the settlement, the landlord agreed not to take "any action directed to the eviction of any person on the basis that such person has been the victim of violence, including domestic violence, initiated by another person, whether or not such person is residing in the tenant's household". *Id.* at ¶8(a). The United States also required the landlord to review and revise its policies to comply with this standard, post a notice to all tenants informing them of the new policy, and arrange training for all employees concerning "their responsibilities under federal, states and local Fair Housing laws, regulations and ordinances." *Id.* at ¶¶12-13, 16. Before filing the complaint, the United States, through HUD, charged the landlord with unlawfully discriminating against Ms. Alvera. Determination of Reasonable Cause, *Alvera v. Creekside Village Apartments*, Case No. 10-99-0538-8, at 6 (Seattle Fair Hous. HUB April 16, 2001); *U.S. Dep't of Hous. and Urban Dev. v. C.B.M. Group, Inc.*, U.S. Dep't of Hous. and Urban Dev., Office of Administrative Law Judges, Docket No. HUDLJ 10-99-0538-8, at 2,7 (April 16, 2001) (charge of discrimination).

member is a victim or a perpetrator of the crime -- has an adverse effect based on gender in violation of law.[46/]

3. Strict Liability Evictions Are Contrary To Public Policy

Finally, in determining whether Congress specifically intended to authorize strict liability evictions of battered women and their children under section 1437d(l)(2), the Court "should not confine itself to examining a particular statutory provision in isolation."[47/] Instead individual statutory provisions must be considered in "context."[48/] As this Court reiterated last year,

> It is a 'fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme.'[49/]

[46/] Moreover, as the Ninth Circuit aptly stated, "[p]enalizing conduct that involves *no intentional wrongdoing* by an individual can run afoul of the Due Process Clause." *Rucker v. Davis*, 237 F.3d 1113, 1125 (9th Cir. 2001) (citing *Scales v. United States*, 367 U.S. 203, 224-225 (1961) (emphasis in original). For this Court to adopt a statutory construction that increases "the Constitutional difficulties" of a statute "would directly contradict one of the most basic canons of statutory interpretation." *United States v. Morrison*, 529 U.S. 598, 631 n. 2 (2000) (citing *NLRB v. Jones & Laughlin Steel Corp.*, 301 U.S. 1, 30 (1937).

[47/] *Food and Drug Admin. v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 132 (2000).

[48/] *Id.*

[49/] *Id.* at 133 (quoting *Davis v. Michigan Dept. of Treasury*, 489 U.S. 803, 809 (1989).

The meaning of this particular statute can be affected by "other Acts, particularly where Congress has spoken *subsequently and more specifically* to the topic at hand."[50/]

Most importantly here,[51/] Congress has directly sought to remedy the problem of domestic violence and homelessness through legislation on various occasions since 1988. Congress repeatedly acted to provide services and support for victims of domestic violence. For example, in 1984 Congress enacted the Family Violence Prevention Services Act[52/] and the Victims of Crime Act[53/] to provide funds "for the purpose of providing immediate shelter and related assistance to victims of family violence."[54/]

Similarly, Congress passed the Violence Against Women Act in 1994[55/] ("VAWA") to allocate funds to combat violent crimes[56/] and to reduce sexual assaults against women.[57/] This law includes funds earmarked to encourage arrest

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[50/] *Id.* at 133 (citing *United States v. Estate of Romani*, 523 U.S. 517, 530-531 (1998); *United States v. Fausto*, 484 U.S. 439, 453 (1988)) (emphasis supplied).

[51/] *Accord Brown & Williamson Tobacco*, 529 U.S. at 133.

[52/] Pub. L. No. 98-457, 98 Stat., 1757 (1984) (codified as amended at 42 U.S.C. §§ 10401 *et seq.* (1994 and Supp. V 1999)).

[53/] Pub. L. No. 98-473, 98 Stat. 2170 (1984) (codified as amended at 42 U.S.C. §§ 10601 *et seq.* (1994 and Supp. V 1999)).

[54/] *See id.* at § 10402(f).

[55/] Violence Against Women Act, Pub. L. No. 103-322, Sec. 40001, 108 Stat. 1902-55 (1994) (codified as amended in scattered sections of 16 U.S.C., 18 U.S.C. and 42 U.S.C.).

[56/] 42 U.S.C. §§ 10401 *et seq.*

[57/] *See id.* § 13941.

policies,[58/] to fund shelters for battered women,[59/] to maintain databases about domestic violence,[60/] and to fund a national domestic violence hotline to facilitate access to information and assistance for battered women.[61/] In 2000, Congress reauthorized VAWA ("VAWA II"),[62/] with $3.3 billion to address violence against women over the next five years. VAWA II includes coverage for dating violence and new programs for transitional housing, supervised visitation centers, civil legal assistance and judicial education, as well as provisions to give additional protection to battered immigrant women. If anything, these statutes show that Congress has sought to help domestic violence victims.

Most compelling of all, Congress called on each Public Housing Authority to consider preferences for domestic violence victims on public housing waiting lists.[63/] It would be a tortured reading of the statute to authorize eviction in light of this express Congressional directive.

[58/] *See id.* § 14031.

[59/] *See id.* § 10402(a)(1). Counseling and shelter programs furnish a variety of services, including hotlines, individual and group counseling, housing, advocacy services, physical protection, emergency medical care, food, clothing, transportation, childcare, and outreach and education programs. Still, resources are scarce, and the demand for shelters far exceeds their capacity.

[60/] 42 U.S.C. § 13962 (1999).

[61/] *See id.* at § 10416.

[62/] Pub. L. No. 106-386 Sec. 1001 *et seq.*, 114 Stat. 1464 (2000) (codified as amended in scattered sections of 16 U.S.C., 18 U.S.C., and 42 U.S.C.).

[63/] *See* Quality Housing and Work Responsibility Act of 1998, Pub. L. No. 105-276, Sec. 514(e), 112 Stat. 2518 (1999).

Congress's recurring efforts to aid victims of domestic violence, and provide them housing, arises from its recognition that battered women frequently are victimized as residents of public housing. Using Section 1437d(1)(6) to punish battered women wholly contradicts Congress's stated preference for helping victims of domestic assault, and "plainly contradict[s] Congressional policy."[64/]

V. CONCLUSION

Battered women not only face abuse in the home, they fear the loss of their homes as a result of strict liability eviction policies applied against them. Congress could not, and did not, intend Section 1437d(l)(6) to authorize such actions. Innocent victims of crime should not fear homelessness. For these reasons, the Court of Appeals for the Ninth Circuit correctly interpreted the Congressional directive and its decision should be AFFIRMED.

[64/] *Brown & Williamson Tobacco*, 529 U.S. at 136.

Respectfully submitted,

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APPENDIX

INTEREST OF AMICI CURIAE

The following organizations submit this brief as *Amici curiae* in support of Respondents:

The *National Network to End Domestic Violence* ("NNEDV") is a not-for-profit organization incorporated in the District of Columbia since 1995. NNEDV is a network of state domestic violence coalitions, representing over 2,000 member programs nationally. NNEDV serves as the national voice of battered women and their children and those who provide direct services to them. From testifying before Congress on the housing needs of battered women to serving on the National Legislation Task Force on Housing and Domestic Violence, NNEDV is a national leader in efforts to create safe homes for battered women and their children.

The *National Network to End Domestic Violence Fund* ("NNEDV Fund") is a not-for-profit organization incorporated in the District of Columbia since 1996 for the purposes of providing technical assistance, training and public education to advocates, professionals and individuals who encounter battered women in their work and communities. The NNEDV Fund has provided advice and expertise on domestic violence issues affecting battered women and their children to judges, attorneys, educators and state and local welfare, justice system personnel, and others working to end domestic violence. The NNEDV Fund works collaboratively with national homelessness and housing organizations to strengthen the federal response to the housing needs of battered women and their children.

The *California Alliance Against Domestic Violence* ("CAADV") is a non-profit organization incorporated in the state of California. Initiated in the late 1970's, CAADV has

functioned as the statewide voice and organizing force on behalf of the needs and interests of battered women and domestic violence programs throughout the state. Affordable housing is extremely important to battered women and their children. Because batterers often use economic control to maintain power over their partners, women fleeing violent homes frequently lack the necessary resources to establish their independence apart from the batterer. This is why safe and affordable housing is of extreme importance in the struggle to deter domestic violence. It is our experience that "One Strike" policies are frequently applied to the detriment of victims of domestic violence. For that reason, we support Respondents in urging this Court to affirm the Ninth Circuit en banc ruling.

The *Alabama Coalition Against Domestic Violence* ("ACADV") was organized in 1978 as a network of shelters for battered women and their children and of organizations and individuals concerned about domestic violence in Alabama and the nation. Affordable housing is vitally important to battered women and their children. Women fleeing violent homes often do not have the resources to establish themselves separately from their abusers and must turn to subsidized or public housing in order to meet their independent housing needs. It has been our experience that strict liability policies are frequently applied to victims of domestic violence. Certainly, we have seen many situations in which battered women have been denied or evicted from public housing because of actions taken by their abusers without the consent or involvement of the victim.

The *Alaska Network on Domestic Violence & Sexual Assault* ("ANDVSA") is a non-profit organization incorporated in the State of Alaska. Founded in 1978, ANDVSA seeks to provide a collective voice for battered women in Alaska and for the local programs that serve them

and to improve and expand the services available to battered women and their children in Alaska. In particular, affordable housing is vitally important to battered women and their children. Women fleeing violent homes often don't have the resources to establish themselves separately from the abuser. This is why safe and affordable housing is a crucial element in the struggle to end family violence. Although the above referenced case references drug-related criminal activity, it has been our experience that such laws also can be applied similarly to the detriment of victims of domestic violence.

The *Arizona Coalition Against Domestic Violence* ("ACADV") is a non-profit organization, incorporated in the State of Arizona. Founded in 1980, ACADV is a statewide membership organization of battered women, formerly battered women, domestic abuse programs, and individuals committed to ending domestic violence. Affordable housing is vitally important to battered women and their children. ACADV believes that victims of domestic violence should not be punished by strict liability policies that force their eviction from their homes.

The *Colorado Coalition Against Domestic Violence* ("CCADV") was organized in 1978 as a network of shelters for battered women and their children. Affordable housing has been a primary concern for CCADV. Housing is vitally important to battered women and their children as oftentimes women who escape from violent homes do not have the economic resources to obtain housing. CCADV is committed to assisting victims and their children in every way necessary for their well being and safety.

The *Connecticut Coalition Against Domestic Violence* ("ConnCADV") is a non-profit organization, incorporated in the State of Connecticut. Founded in 1978, ConnCADV is comprised of organizations and individuals with concerns

regarding domestic violence issues. ConnCADV seeks to improve and expand the services available to battered women and their children in Connecticut by providing technical assistance to local programs to promote best practices and to provide community education and public awareness on issues of domestic violence. One issue that demands particular attention is affordable, safe housing. Economic control is a tool used by batterers to maintain power and control over their victims. Therefore, women fleeing violent homes often don't have the resources to establish themselves separately from their abuser. ConnCADV is working hard with our local programs to promote housing and to eliminate barriers to housing.

The *Delaware Coalition Against Domestic Violence* ("DCADV") is a statewide, nonprofit organization established in 1994. Our current membership includes private, nonprofit agencies and programs providing shelter and direct services to adult victims of domestic violence, allied organizations and supportive individuals from throughout our state. In all of our planning efforts, the need for safe affordable housing is consistently identified as one of the fundamental needs of battered women and their children. Along with transportation and childcare, safe and affordable housing is critical if abused women are to live free from violence. Public housing has always represented an important piece of the safety net for victims who must escape an abusive relationship, and DCADV's member programs have long worked with housing systems in Delaware to help facilitate access to public housing for battered women. Perpetrators often use access to economic resources including housing as a means to maintain control in their relationships. Although the above referenced case relates directly to drug-related criminal activity, such laws are frequently applied to victims of domestic violence.

The *District of Columbia Coalition Against Domestic Violence* ("DCCADV") is dedicated to the elimination of domestic violence in the District of Columbia. Access to safe and affordable housing is often critical for women fleeing abuse and working to establish themselves independently. When a woman leaves an abusive relationship she must find an affordable place to live that is out of harm's way. The ability to do this often determines whether she can truly begin a new life. The DCCADV has provided technical assistance and training to housing providers on domestic violence and has worked closely with housing advocates and organizations to improve access to victims. The critical need for safe and affordable housing for battered women and their children can not be overstated.

The *Hawaii State Coalition Against Domestic Violence* ("HSCADV") is a private, not-for-profit organization. As a statewide coalition of domestic violence programs, our mission is to ensure the safety and protection of women in intimate relationships by coordinating domestic violence prevention and intervention services, affecting public policy, and establishing coordinated and consistent procedures and actions by the civil and criminal justice systems in Hawaii. The HSCADV believes affordable housing is vitally important to battered women and their children. Because economic control is a tool used by batterers to maintain power and control over their victims, women fleeing violent homes often don't have the resources to establish themselves separately from their abuser. This is why safe and affordable housing is a crucial element in the struggle to end family violence.

The *Idaho Coalition Against Sexual and Domestic Violence* ("ICASDV") is a non-profit organization incorporated in the State of Idaho. Founded in 1982, ICSDV's members include sexually abused/battered women,

former victims, domestic violence and sexual assault programs, and individuals committed to ending violence. From its earliest stages, ICASDV was comprised of organization and individuals with concerns regarding victims' issues. ICSDV seeks, among other things, to provide a collective voice for victims of abuse in Idaho and for the local programs that serve them, so as to expand the services available to victims and their children. Women fleeing violent homes often don't have the resources to establish themselves separately from their abuser. This is why safe and affordable housing is a crucial element in the struggle to end family violence.

The *Illinois Coalition Against Domestic Violence* ("ICADV") was created in 1978 for the purpose of advocating change in public policy and increasing public awareness and funding of local programs in an effort to end domestic violence against women and their children. The ICADV recognizes that safe, affordable housing must be available to victims of domestic violence who are forced to flee their homes. Victims often rely upon low income housing funded by HUD when it is available. Perpetrators of domestic violence may stalk their victims, follow them to their new homes, break in and assault them. A victim should not be evicted when this happens, because she has no control over the perpetrator's behavior. The law should forbid eviction of the victim and require that all appropriate criminal charges be filed against the perpetrator. In the absence of clear guidelines, the local housing authority staff makes the decision to evict or not, solely upon their own local policy and judgment. As a result, there is no consistency in eviction decisions, and many battered women are victimized by losing their homes.

The *Kansas Coalition Against Sexual and Domestic Violence* ("KCSDV") is a non-profit, Kansas corporation,

providing a statewide voice in Kansas for battered women, as well as the domestic violence programs that serve them. Housing is one of many issues that KCSDV routinely addresses with its members. Housing laws, whether in Kansas or in other state or federal jurisdictions, must be interpreted in light of the unique circumstances effecting victims of domestic violence. KCSDV recognizes that *HUD v. Rucker* involves drug-related criminal activity in a public house project; however, KCSDV is concerned that the resulting case law could be applied to any violence-related activity, including domestic violence, and may result in victims of domestic violence being evicted from their homes due to their partners' violent behavior. Victims and survivors of domestic violence have no control over the violent behavior of their partners and should not be penalized or further victimized by being evicted because of it.

The *Kentucky Domestic Violence Association* ("KDVA") is a nonprofit organization that provides training, technical assistance and support services to Kentucky's seventeen domestic violence programs. From its earliest stages, KDVA has recognized that fact that affordable and safe housing is vitally important for battered women and their children. Too often our society's response to domestic violence is to question "why doesn't she just leave?". Those of us who do this work on a daily basis know that the real question is "where can she go?" This is why safe and affordable housing is a crucial element in the struggle to enable victims to be able to leave a battering relationship.

The *Michigan Coalition Against Domestic and Sexual Violence* ("MCADSV") is a statewide coalition of over 70 domestic violence and sexual assault programs in Michigan. These programs provide comprehensive domestic violence and sexual assault services to victims of domestic violence and sexual assault in Michigan. Affordable housing, often

provided exclusively through public housing in Michigan, is essential for many battered women who are trying to escape a violent partner. Studies on separation violence underscore the reality that perpetrators of domestic violence do not stop their abuse, but rather often escalate the use of violence, after the victim leaves the relationship. It is not uncommon for perpetrators to stalk, assault or perpetrate other crimes in retaliation for leaving, involving the legal system and/or to frighten the victim into returning to the relationship. Perpetrators further attempt to sabotage the victim's efforts to escape by a variety of tactics, including using their own involvement in crime as a threat to the victim. Interpretation of HUD policy to authorize the eviction of victims of crime, regardless of whether the victim had knowledge of the crime or could be considered to have control over the criminal action, would unfairly and dangerously penalized victims of domestic violence and their children. Such an interpretation would be antithetical to the numerous federal and state public policy initiatives directed at protecting victims of domestic violence and holding perpetrators accountable for their abuse.

The *Minnesota Coalition for Battered Women* ("MCBW") is a non-profit organization incorporated in the State of Minnesota. Founded in 1978, MCBW is a statewide membership organization of battered women, formerly battered women, domestic abuse programs, and individuals committed to ending domestic violence. In particular, affordable housing is vitally important to battered women and their children. Economic control is a tool used by domestic batterers to maintain power and control over their victims. Therefore, women fleeing violent homes often don't have the resources to establish themselves separately from their abuser. Safe and affordable housing is a crucial element in the struggle to end family violence. MCBW routinely advocates for housing laws that take into

consideration the unique concerns of battered women and their children before the Minnesota Legislature.

The *National Training Center on Domestic and Sexual Violence* ("NTCDSV") is a non-profit organization incorporated in the State of Texas. Founded in 1998, the mission of NTCDSV is to design, customize and provide training and consultation; influence policy; promote collaboration; and enhance diversity with the goal of ending domestic and sexual violence. Safe, affordable housing is crucial to this network of safety. Although the above referenced case is about drug-related crimes, it is our experience that such rules are applied to victims of domestic violence as well.

The *Nebraska Domestic Violence Sexual Assault Coalition* ("NDVSAC") is a statewide membership network of domestic violence and sexual assault programs, individuals, and organizations working to end violence against women and children. NDVSAC's purpose is to ensure that adequate emergency services are available to the increasing number of women and children needing safe shelter, support, and assistance. NDVSAC realizes the importance of affordable housing for the victims of domestic violence. We are working to ensure laws are properly drafted to allow just that. NDVSAC also serves as a statewide resource and training center and works to increase public awareness and understanding about these crimes.

The *New Hampshire Coalition Against Domestic and Sexual Violence* ("NHCADSV") is a not-for-profit organization incorporated in the State of New Hampshire for the purpose of coordinating services and advocacy on behalf of the victims of domestic violence and their minor children. In particular, affordable housing is vitally important to battered women and their children. Economic control is a

tool used by domestic batterers to maintain power and control over their victims. This is why safe and affordable housing is a crucial element in the struggle to end family violence. NHCADSV routinely advocates for housing laws that take into consideration the unique concerns of battered women and their children before the New Hampshire legislature.

The *New Jersey Coalition for Battered Women* ("NJCBW") is a statewide coalition of domestic violence service programs and concerned individuals whose purpose and mission is to end violence in the lives of women. The NJCBW seeks, among other things, to provide a collective voice for battered women in New Jersey by providing technical assistance to promote the sharing of information between shelter providers in New Jersey and to provide for public and community education on issues of domestic violence. It is particularly difficult for battered women in New Jersey to secure affordable housing. New Jersey is the third most expensive state in the nation in which to lease an apartment. This is why the availability of safe and affordable housing is a crucial element in the struggle to end domestic violence. The NJCBW has been working with other non-profit organizations to pass laws to help create more affordable housing.

The *New Mexico Coalition Against Domestic Violence* ("NMCADV") was organized in 1982. NMCADV has been at the forefront working to achieve a coordinated local, regional, and statewide response to domestic violence. NMCADV members, affiliates, and advocates are committed to ending the violence between adult couples, in teen relationships, and in same sex relationships. The vision of the NMCADV is that children will grow up without witnessing and experiencing violence in their homes.

The *New York State Coalition Against Domestic Violence* ("NYSCADV") is the only statewide, non-profit organization in New York State whose primary goal is the elimination of domestic violence. Since its inception in 1978, the Coalition has been a driving force behind support for the development of hundreds of programs throughout New York State that provide services to abused women and their children. Safe affordable housing is vitally important to abused women and their children. Abusers employ economic control, including access to housing, to establish and maintain power over their victims. Women often want to flee violent homes but don't have the means to establish themselves separately from their abusers without assistance. Public housing can provide this assistance. However, if a woman is not able to leave her abuser or has chosen not to leave for a variety of reasons, she should still be afforded safe and affordable housing and not punished for her abuser's actions. The NYSCADV advocates for housing laws that take in consideration the concerns of women who are abused and their children and holds batterers accountable for their actions, not their victims.

The *North Carolina Coalition Against Domestic Violence* ("NCCADV") was organized in 1981 as a network of shelters for battered women and their children. NCCADV seeks, among other things, to provide a collective voice for battered women in North Carolina and for the shelters that serve them. In particular, affordable housing is vitally important to battered women and their children. Economic control is a tool used by batterers to keep their victims in check. Therefore, women fleeing violent homes often don't have the resources to establish themselves. This is why safe and affordable housing is a crucial element in the struggle to end family violence.

The *Ohio Domestic Violence Network* ("ODVN") is a private, non-profit organization incorporated in the State of Ohio. Founded in 1989, ODVN is the collective voice of over one hundred domestic violence and allied programs and numerous individuals in Ohio. Affordable housing is one of the vitally important issues for battered women and their children. Economic control is a tool used by batterers to obtain and maintain control of their victims. Women fleeing violence need safe and affordable housing. Although the above referenced case references drug-related criminal activity, it has been our experience that such laws are also applied to domestic violence activities. ODVN advocates for housing laws that take into consideration the unique concerns of battered women and their children.

The *Oklahoma Coalition Against Domestic Violence and Sexual Assault* ("OCADVSA") was organized in 1981 as a network of shelters and crisis centers for victims of sexual assault, battered women and their children. OCADVSA seeks, among other things, to provide a collective voice for battered women in Oklahoma and for the programs that serve them. In particular, affordable housing is vitally important to battered women and their children in Oklahoma. Battered women in Oklahoma list housing as one of the top three barriers to extricating themselves from their abusive partner.

The *Pennsylvania Coalition Against Domestic Violence* ("PCADV") is a not-for-profit organization incorporated in the Commonwealth of Pennsylvania for the purpose of providing services and advocacy on behalf of the victims of domestic violence and their minor children. Battered women must be afforded the remedy of safe and affordable housing for themselves and their children. Public housing provides an opportunity to achieve safety and autonomy from battering for numerous battered women and their children.

The *Rhode Island Coalition Against Domestic Violence* ("RICADV") is a nonprofit organization, incorporated in the State of Rhode Island and Providence Plantations. The RICADV advocates for the housing concerns of domestic violence victims in Rhode Island. Part of this work involves advocating for housing policies that take into consideration the safety concerns and economic reality for domestic violence victims. The current HUD policy of evicting household members from public housing on the basis that one member has participated in "criminal related drug activity" is blind to the fact that domestic violence victims are often not able to prevent such activity when it is carried out by an abusive partner. This policy and other policies of zero tolerance for criminal activity have been used as a basis to evict domestic violence victims from public housing when there has been an incident of domestic violence. Housing policies that create more danger for domestic violence victims by leaving them homeless and penalizing them for their abusive partner's behaviors will create grave danger for battered women and their children.

Sojourn Services for Battered Women and Their Children ("Sojourn") is a non-profit agency established in Santa Monica, California in 1977. Sojourn provides free services to victims of domestic violence. Our programs include a 24-hour crisis hotline, a community education and outreach program, an emergency response team, support groups and the Children's Program. Access to safe and affordable housing is the single issue having the greatest impact on their future. Many women feel trapped in a violent home because they fear becoming homeless if they were to leave. Unfortunately, that fear is all too justified. A high percentage of homeless women and children ended up on the streets while attempting to flee violent homes. Public housing is critical to helping women and children escape, but strict liability policies such as "One Strike" threaten victims

of domestic violence with the loss of their homes due to circumstances beyond their control.

The *South Carolina Coalition Against Domestic Violence and Sexual Assault* ("SCCADVASA") is a strong voice for women's rights in South Carolina. SCCADVASA is a private, non-profit organization founded in 1981 to represent the needs of victims/survivors of domestic and sexual violence and to advocate for the providers of service to individuals who have suffered as a result of these crimes. In particular, affordable housing is vitally important to battered women and their children. Although the above referenced case refers to drug-related criminal activity, it has been our experience that such laws are also applied similarly to victims of domestic violence. SCCADVASA has a long history of providing technical assistance to local programs in South Carolina on housing issues. SCCADVASAS also routinely advocates for housing laws that take into consideration the unique concerns of battered women and their children with the South Carolina Legislature.

The *Vermont Network Against Domestic Violence and Sexual Assault* is a statewide coalition of sixteen domestic violence and sexual assault programs in Vermont. These programs provide comprehensive domestic violence and sexual assault services to each county in Vermont. Affordable housing is vitally important to battered women and their children. In Vermont, as in many states, available affordable housing is scarce. Many battered women must depend on public housing to meet their housing needs. The above referenced case references drug-related criminal activity, but it has been our experience that such laws may also be used against victims of domestic violence. Consequently, this case is of extreme interest to us. We join in the amicus brief submitted by various domestic violence

organizations and advocates and urge your support for the Respondents in this matter.

The *Washington State Coalition Against Domestic Violence* ("WSCADV") is a non-profit organization, incorporated in the state of Washington. Founded in 1990, WSCADV is a statewide membership organization comprised of organizations and individuals committed to eradicating domestic violence. In relation to housing, it is vital that battered women have affordable housing available to them when, and if, they choose to flee their violent home. Domestic batterers develop numerous ways to maintain power and control over their victim. When battered women seek housing, their choices are often extremely limited if the abuser controls the finances of the couple, since the battered women would then have very little, if any, access to economic resources. In addition to this economic hurdle, batterer's generally do not stop seeking power and control when their partner leaves. Often, the act of leaving the abuser strengthens the abuser's resolve to regain that connection with their partner. Holding a tenant, who has been a victim of domestic violence, responsible for the behavior or criminal activity of their current or former partner, with regards to the tenant's lease, unfairly penalizes the victim and puts the power and control squarely back into the hands of the perpetrator. Such a reading of the statute undermines the effectiveness of affordable, independent housing for battered women and their children. Furthermore, allowing federal housing regulations to permit victims of crime to be punished for the actions of the perpetrator of crimes against them contradicts the intent of Congress in its enactment of the Violence Against Women Act and other remedial statutes intended to assist crime victims.

The *West Virginia Coalition Against Domestic Violence* ("WVCADV") is a network of thirteen licensed domestic

violence programs and their forty outreach offices as well as a central office that provide services to the fifty-five counties of the state. An on-going concern of WVCADV is the impact of domestic violence on the ability of survivors of intimate personal abuse to find adequate and safe housing for themselves and for their children. Emergency and transitional housing are by their nature only a step toward a more permanent home. Perpetrators of abuse, however, often use this most basic human need for shelter as a tactic for maintaining power and control over their victims. Although the above referenced case relates to drug-related criminal activity, it has been our experience that such laws can be applied similarly to violence-related activity including domestic violence. WVCADV joins in this brief and advocates and urges your support for the respondents in this matter.

The *Wisconsin Coalition Against Domestic Violence* ("WCADV") is a non-profit organization incorporated in the State of Wisconsin. Founded in 1978, WCADV is a statewide membership organization of battered women, formerly battered women, domestic abuse programs, and individuals committed to ending domestic violence. In particular, affordable housing is vitally important to battered women and their children. Economic control is a tool used by domestic batterers to maintain power and control over their victims. Therefore, women fleeing violent homes often don't have the resources to establish themselves separately from their abuser. Although the above referenced case references drug-related criminal activity, it has been our experience that such laws are applied similarly to victims of domestic violence.

The *Wyoming Coalition Against Domestic Violence and Sexual Assault* ("WCADVSA") was organized in 1980 and incorporated as a private non-profit in 1984. WCADVSA

provides a state and national level voice for battered women and sexual assault victims and the network of domestic violence and sexual assault (DV/SA) programs in Wyoming. Risks from batterers include economic control resulting in loss of security, housing and income. Women fleeing violent homes often don't have the resources to establish themselves. Affordable housing is critical in the struggle to end domestic violence. Little public housing is available in Wyoming's more rural areas. A few DV/SA programs are establishing transitional housing units to address this need. However, lack of stable funding prevents most from this important work.